IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

Crl.Rev.Pet.No. 635 of 1999

CRA.112/1994 of I ADDL. SESSIONS COURT, PALAKKAD
ST.2144/1992 of JFCM COURT, MANNARKKAD

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REVN. PETITIONER/APPELLANT/ACCUSED:

A.V.MATHEW, S/O VARKEY, RESIDING AT
AYATHPADATH HOUSE, ELAMBULASSERI P.O.,
KARAKURUSSI VILLAGE, MANNARKKAD
TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON

RESPONDENTS/RESPONDENTS/COMPLAINANT:

1. STATE OF KERALA REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

2. UNNIKRISHNAN, S/O KUMARAN, RESIDING
AT ARIKUZHIYIL HOUSE, VAKKADAPURAM
P.O., KARAKURUSSI, MANNARKKAD
TALUK, PALAKKAD DISTRICT.

R2 BY ADV. SRI.T.M.SUNIL
R1 BY PUBLIC PROSECUTOR SRI.K.M.FIROZ

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 10/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

Crl.R.P.No. 635 of 1999

ORDER

The accused in S.T.No.2144/92 on the file of the Judicial First Class Magistrate's Court, Mannarkkad is the revision petitioner. He was found guilty of the offence under Section 138 of the Negotiable Instruments Act and was sentenced thereunder to undergo simple imprisonment for three months and to pay a fine of Rupees five thousand and in default to undergo simple imprisonment for a further term of two months. Petitioner challenged the conviction and sentence in Crl.A.No.112/94 before the I Additional Sessions Court, Palakkad. The said appeal was dismissed confirming the conviction and sentence passed by the trial court. Hence, this revision.

2. When the matter came up for final hearing, counsel for the petitioner submitted that he does

not want this revision to be considered on merits as regards the conviction entered into concurrently by the courts below, as there is absolutely no ground to persuade this Court to interfere in revision and that, therefore, his prayer is only to have the sentence modified and reduced, so as to have imprisonment avoided for the petitioner. It is also submitted that the petitioner has no objection in converting the fine into compensation. The submissions made by the counsel for the petitioner require favourable consideration in the interest of both parties.

3. In the result, I confirm the conviction of the petitioner for offence under Section 138 of the Negotiable Instruments Act. All the same, the sentence awarded to the petitioner is set aside and modified sentence is awarded to him. He is sentenced to undergo simple imprisonment for one day till rising of court and to pay a compensation

of Rupees forty thousand to the second respondent/ complainant and in default to undergo simple imprisonment for a term of five months. Petitioner shall surrender before the trial court positively in the Forenoon of 14.2.2007 to receive the sentence and shall make deposit of the compensation amount before that court positively on that day. In case of failure, the learned Magistrate shall enforce the default sentence forthwith against the petitioner. Counsel for the petitioner submits that an amount of Rupees five thousand imposed by the trial court by way of fine was already deposited before the trial court. In case the said amount is deposited as submitted, the petitioner need deposit only the balance amount of Rupees thirty five thousand. The trial court may verify the correctness of the submission before permitting the petitioner to deposit only the balance amount by way of compensation. The said amount already

deposited as also the amount to be deposited, shall be disbursed to the complainant/second respondent by way of compensation under Section 357(3) Cr.P.C., if deposited.

10th January, 2007 (K.P.Balachandran, Judge)

tkv

K.P.Balachandran, J.

Crl.R.P.No.635 of 1999

ORDER

10th January, 2007